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16
17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

19
20 CHASOM BROWN, *et al.*,
21 Plaintiffs,
22 v.
23 GOOGLE LLC,
24 Defendant.

25 Case No. 4:20-cv-03664-YGR-SVK

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28 **JOINT SUBMISSION IN RESPONSE TO
DKTS. 447 AND 449 RE: SEALING
PORTIONS OF MARCH 2, 2022 ORDER**

25
26 Referral: Hon. Susan van Keulen, USMJ

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28

1 March 8, 2022

2 Submitted via ECF

3 Magistrate Judge Susan van Keulen
4 San Jose Courthouse
5 Courtroom 6 - 4th Floor
6 280 South 1st Street
7 San Jose, CA 95113

8 Re: Joint Submission in Response to Dkts. 447 and 449 re: Sealing Portions of March
9 2, 2022 Order Re Discovery Disputes P25, P26, and P29
10 *Brown v. Google LLC*, Case No. 4:20-cv-03664-YGR-SVK (N.D. Cal.)

11 Dear Magistrate Judge van Keulen:

12 Pursuant to Your Honor's March 2, 2022 Redaction Order re: sealing portions of March 2,
13 2022 Order Re Discovery Disputes P25, P26, and P29, Plaintiffs and Google LLC ("Google") jointly
14 submit this statement.

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1 Google respectfully seeks to seal the following portions of Exhibit A of the March 1, 2022
 2 Order Following February 28, 2022 Discovery Hearing (“Order”), which contain personal and private
 3 medical information related to a Google employee, that Google maintains as confidential in the
 4 ordinary course of its business and is not generally known to the public. Google previously sought to
 5 seal most of the same information in Docket No. 459. This information is highly confidential and
 6 should be protected.

7 This Administrative Motion pertains to the following information contained in the Order:

8 Document	9 Portions to be Filed Under Seal	10 Party Claiming Confidentiality
11 Exhibit A of Order	12 Portions highlighted in yellow at: 13 Page 7-8	14 Google

15 The parties conferred on the proposed redactions to the Order. Plaintiffs support sealing the
 16 proposed redactions.

17 **I. LEGAL STANDARD**

18 The common law right of public access to judicial records in a civil case is not a constitutional
 19 right and it is “not absolute.” *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598 (1978)
 20 (noting that the “right to inspect and copy judicial records is not absolute” and that “courts have
 21 refused to permit their files to serve as reservoirs of . . . sources of business information that might
 22 harm a litigant’s competitive standing”). Sealing is appropriate when the information at issue
 23 constitutes “competitively sensitive information,” such as “confidential research, development, or
 24 commercial information.” *France Telecom S.A. v. Marvell Semiconductor Inc.*, 2014 WL 4965995, at
 25 *4 (N.D. Cal. Oct. 3, 2014); *see also Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1211 (9th Cir.
 26 2002) (acknowledging courts’ “broad latitude” to “prevent disclosure of materials for many types of
 27 information, including, but not limited to, trade secrets or other confidential research, development, or
 28 commercial information”).

29 **II. THE ABOVE IDENTIFIED MATERIALS EASILY MEET THE “GOOD CAUSE”
 30 STANDARD AND SHOULD ALL BE SEALED**

1 Courts have repeatedly found it appropriate to seal documents that contain medical
 2 information or “business information that might harm a litigant’s competitive standing.” *Nixon*, 435
 3 U.S. at 589-99; *see also Turner v. United States*, 2019 WL 4732143, at *9 (finding good cause to seal
 4 “confidential medical information”). Good cause to seal is shown when a party seeks to seal materials
 5 that “contain[] confidential information about the operation of [the party’s] products and that public
 6 disclosure could harm [the party] by disclosing confidential technical information.” *Digital Reg. of*
 7 *Texas, LLC v. Adobe Sys., Inc.*, 2014 WL 6986068, at *1 (N.D. Cal. Dec. 10, 2014). Materials that
 8 could harm a litigant’s competitive standing may be sealed even under the “compelling reasons”
 9 standard. *See e.g., Icon-IP Pty Ltd. v. Specialized Bicycle Components, Inc.*, 2015 WL 984121, at *2
 10 (N.D. Cal. Mar. 4, 2015) (information “is appropriately sealable under the ‘compelling reasons’”
 11 standard where that information could be used to the company’s competitive disadvantage”) (citation
 12 omitted).

13 Here, Exhibit A of the Order comprises confidential information regarding the personal and
 14 private medical information of a Google employee that Google does not share publicly and should not
 15 otherwise be disclosed.

16 The information Google seeks to redact is the minimal amount of information needed to
 17 protect the personal and private medical information of its employee. The “good cause” rather than
 18 the “compelling reasons” standard should apply but under either standard, Google’s sealing request is
 19 warranted.

20 **III. CONCLUSION**

21 For the foregoing reasons, Google respectfully requests that the Court seal the identified portions
 22 of Exhibit A of the Order.

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1 Respectfully,

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ATTESTATION OF CONCURRENCE

I am the ECF user whose ID and password are being used to file this Joint Submission. Pursuant to Civil L.R. 5-1(i)(3), I hereby attest that each of the signatories identified above has concurred in the filing of this document.

Dated: March 8, 2022

By /s/ Andrew H. Schapiro

Andrew H. Schapiro
Counsel on behalf of Google LLC